

INITIAL DECISION RELEASE NO. 347
ADMINISTRATIVE PROCEEDING
FILE NO. 3-12828

UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

In the Matter of	:	
	:	
BYRON S. RAINNER	:	INITIAL DECISION
	:	March 25, 2008
	:	

APPEARANCES: Edward G. Sullivan for the Division of Enforcement, Securities and Exchange Commission.

Byron S. Rainer, pro se.

BEFORE: Robert G. Mahony, Administrative Law Judge.

The Securities and Exchange Commission (Commission) issued its Order Instituting Proceedings (OIP) on September 25, 2007, pursuant to Section 15(b) of the Securities Exchange Act of 1934 (Exchange Act) and Section 203(f) of the Investment Advisers Act of 1940 (Advisers Act). The OIP alleges that on November 20, 2006, the United States District Court for the Northern District of Georgia (district court) entered a judgment, sentencing Byron S. Rainer (Respondent or Rainer) to a prison term of thirty months, followed by three years of supervised probation, and ordering him to make restitution in the amount of \$2,036,134. The Commission instituted this proceeding to decide whether remedial action is appropriate in the public interest. The Division of Enforcement (Division) seeks to bar Respondent from association with any broker, dealer, or investment adviser.

The Division has provided evidence that Respondent was served with the OIP by October 4, 2007. At a telephonic prehearing conference, at which the Division and Respondent appeared, I granted Respondent's request for an extension of time to file an Answer and the Division's request for leave to file a motion for summary disposition (Prehearing Conference Transcript at 7, 9; Order of Oct. 31, 2007). Respondent filed an Answer dated November 19, 2007.¹ The

¹ Prior to filing his Answer and prior to the prehearing conference, Respondent, in a Motion to Dismiss for Lack of Personal Jurisdiction, dated October 23, 2007, requested that I dismiss the proceeding against him on the basis that he, *Byron Sherrod Rainer*, "is not the same natural person" as the named Respondent, *Byron S. Rainer*. Respondent supported his motion with an unsworn affidavit. The Division filed an opposition to this motion on October 30, 2007, providing evidence, including court documents from the underlying district court proceeding, Financial Industry Regulatory Authority (formerly National Association of Securities Dealers) filings, correspondence, and a web site print-out from the Federal Bureau of Prisons, some of

